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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 HENG ZHAO,) 1:05-cv-00068-OWW- TAG HC
11)
12) ORDER TO RESPONDENT TO FILE
13) FILE PETITIONER'S ALIEN FILE
14)
15 Petitioner,
16 v.
17)
18 JOHN ASHCROFT, et al.,)
19)
20 Respondents.)

Petitioner is detained by the United States Bureau of Immigration and Customs Enforcement (“ICE”) and is proceeding with a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

DISCUSSION

Petitioner originally filed his petition on January 18, 2005. (Doc. 1). On April 5, 2005,
Petitioner filed an amended petition, alleging that he is a native of China who is subject to a final
order of removal. (Doc. 7, p. 2). Petitioner also alleges that he has been in the custody of ICE since
December 7, 2004, and that his continued detention is in violation of § 241(a) of the Immigration

1 and Naturalization Act, and the United States Supreme Court's decision in Zadvydas v. Davis, 121
2 S.Ct. 2491 (2001). (Doc. 7, p. 2). Petitioner requests his immediate release or, alternatively, his
3 release on bond. (Id. at p. 4). Petitioner does not challenge the underlying final order of removal.

4 On June 6, 2005, the Court issued to Respondent an Order to Show Cause why the amended
5 petition should not be granted. (Doc. 10). The order stated, in part, that "Respondent SHALL
6 INCLUDE a copy of Petitioner's Alien File and any and all other documentation relevant to the
7 determination of the issues raised in the petition." (Doc. 10, p. 2). On July 18, 2005, Respondent
8 filed its response to the Court's Order to Show Cause. (Doc. 11). Respondent contends in its
9 response that Petitioner has failed to cooperate with the removal process and has failed to
10 demonstrate that his removal is not likely to occur in the reasonably foreseeable future. (Doc. 11, p.
11 5). To date, however, Respondent has not complied with the Court's order of June 6, 2005 to file
12 Petitioner's Alien File.

13 Considering the scant information in the present record, the Court believes that Petitioner's
14 Alien File would assist the Court in determining the issues in this case.

15 **ORDER**

16 Accordingly, IT IS HEREBY ORDERED that Respondent SHALL FILE Petitioner's Alien
17 File with the Court within twenty (20) days of the date of service of this order.

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19 IT IS SO ORDERED.

20 **Dated:** September 19, 2005
j6eb3d

21 /s/ Theresa A. Goldner
UNITED STATES MAGISTRATE JUDGE

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